

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Eliyohu Labkowski

v.

Qantas Airways Limited

Docket DOT-OST-2022-0069

**ANSWER OF QANTAS AIRWAYS LIMITED**

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June 29, 2022

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**ANSWER OF QANTAS AIRWAYS LIMITED**

Pursuant to 14 C.F.R. §§ 302.405(a) and 302.408(b), Qantas Airways Corporation (“Qantas”) hereby answers the complaint (the “Complaint”) filed by Mr. Eliyohu Labkowski (“Mr. Labkowski” or “the Complainant”), which alleges that Qantas refused to properly refund or reissue three cancelled tickets: (1) in violation of the requirements adopted in DOT’s rule Enhancing Airline Passenger Protections 76 FR 23110 (April 25, 2011) (codified at 14 CFR Parts 244, 250, 253, 259, and 399); and (2) in violation of 14 CFR § 399.88.

**I. Introduction and Answer**

For the reasons set forth below, the Department should decline to institute an enforcement proceeding based on Mr. Labkowski’s Complaint and should dismiss the Complaint for the following reasons: (1) the regulations cited by the Complainant are inapplicable and otherwise fail to support the relief sought by the Complainant, and (2) Qantas has issued the tickets that were at issue in this proceeding, rendering the Complaint moot.

To the extent Qantas does not specifically admit or deny any statement or allegation in the Complaint, it should be deemed to have been denied by Qantas.<sup>1/</sup>

Qantas responds to the numbered paragraphs in the Complaint as follows:

1. Qantas admits that the Complainant purchased three award tickets on Qantas.com in exchange for Qantas Points and that at the time of the Complaint no tickets had been issued due to a booking error.

2. Qantas admits that on or around March 6, 2022, the Complainant purchased award tickets for travel TLV-JFK on El Al Israel Airlines Ltd., using Qantas Points. Qantas lacks sufficient knowledge or information to admit or deny any and all remaining allegations contained in paragraph 2 of the Complaint.

3. Qantas admits that the Complainant telephoned Qantas on or about April 2, 2022, with respect to three tickets at issue. Qantas lacks sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 3.

4. Qantas admits that on or around April 8, 2022, the Complainant filed a consumer complaint with DOT. Qantas further admits that on or about May 26, 2022, Qantas called the Complainant in response to the DOT consumer complaint. Qantas lacks sufficient knowledge or information to admit or deny the remaining allegations contained in paragraph 4.

5. Qantas lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 5.

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<sup>1/</sup> See 14 C.F.R. § 302.408(b).

6. Qantas lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 6.

7. Paragraph 7 sets forth legal conclusions to which no answer is required. To the extent an answer is required, such conclusions in paragraph 7 are denied. Qantas denies any and all remaining allegations contained in paragraph 7.

8. Qantas lacks sufficient knowledge or information to admit or deny the allegations contained in paragraph 8.

9. Qantas denies the allegations as set forth in paragraph 9.

10. Paragraph 10 sets forth legal conclusions to which no answer is required. To the extent an answer is required, Qantas denies any legal conclusions made in paragraph 10, and Qantas further denies any and all other allegations contained in paragraph 10.

11. Paragraph 11 of the Complaint asks the Department to make certain findings, assess penalties against Qantas and take certain other actions. For the reasons set forth herein, Complainant is not entitled to relief of any kind, and the Complaint should be dismissed.

## II. Response

Qantas has investigated the allegations in the Complaint and has determined that the Complainant's award seats ceased to appear in Qantas' booking system as the result of an inadvertent booking error that occurred after the call that the Complainant placed to Qantas on April 2, 2022.

As the result of Qantas' investigation, Qantas was able to reinstate the three reservations for the July 26, 2022, flight TLV-JFK. The Complaint has therefore been resolved, and Qantas urges the Department to dismiss the Complaint without further action.

Notwithstanding Complainant's contrary assertions, no applicable law or DOT regulation, including Part 399.88 of DOT Regulations and DOT's Enforcement Policy Regarding Mistaken Fares of May 8, 2015, require Qantas to compensate him for the amount of the increase from March to the present on the price of a fourth ticket, whose purchase Complainant allegedly deferred due to the uncertain status of the three other tickets. Contrary to the Complainant's position, Part 399.88 simply prohibits carriers from increasing the price of tickets that have already been sold. Moreover, the language that the Complainant cites from DOT's Enforcement Policy Regarding Mistaken Fares and is likewise inapplicable to the facts alleged in the Complaint.

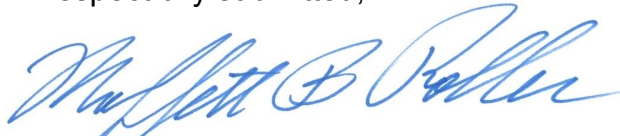
III. Affirmative Defenses

1. The Complainant has not suffered any harm.
2. The Complaint is moot.

IV. Conclusion

WHEREFORE, for the reasons stated above, Qantas respectfully submits that the Department decline to initiate an enforcement proceeding and that the Department dismiss the Complaint in its entirety in accordance with 14 C.F.R. § 302.406(a)(2).

Respectfully submitted,



Moffett B. Roller  
Charles M. Greene  
ROLLER & BAUER, PLLC

Attorneys for Qantas Airways Limited

June 29, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 29<sup>th</sup> day of June 2022, a copy of the foregoing Answer was served by email upon the parties listed below.

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